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UNITED STATES OF AMERICA,)	
<i>Plaintiff,</i>)	
)	The Honorable James T. Giles,
v.)	Chief Judge
)	
UNION CORPORATION, et al.,)	Civil Action No. 80-1589
<i>Defendants,</i>)	
)	
v.)	
)	
CONSOLIDATED EDISON COMPANY)	
OF NEW YORK, et al.,)	
<i>Third Party Defendants.</i>)	
)	

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I. BACKGROUND

C. Following a more than four-week trial in 2002, the Court determined that the four

named defendants – Union Corporation, Metal Bank, Irvin G. Schorsch, Jr., and John B. Schorsch -- are responsible parties within the meaning of CERCLA § 107(a) and RCRA § 7003, and that the Site may present an imminent and substantial endangerment to human health or the environment under RCRA § 7003. The Court subsequently ordered additional investigations to better define the nature and scope of contamination at the Site and set a trial date of November 1, 2004, to determine the appropriate remedy.

D. The Corporate Defendants filed a consolidated Chapter 11 bankruptcy action in the United States Bankruptcy Court for the Eastern District of Missouri in May 2003. The Corporate Defendants agreed to a settlement which established, among other things, a substantial funding mechanism for the future remedy at the Site providing for ultimate payment of up to \$13.235 million into a newly created Four Sites Settlement Trust. A copy of the Settlement Agreement Respecting Environmental Objections to Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, *In the Matter of Union Financial Services Group, Inc., et al.* (United States Bankruptcy Court for the Eastern District of Missouri, Case Number 03-45870-399), is attached hereto as Appendix F. The Corporate Defendants ceased to exist on the effective date of the reorganization in the bankruptcy action.

E. The Parties agree and the Court, by entering this Consent Decree, finds that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

F. Settling Defendant was found liable by the court under all Plaintiff's causes of action asserted in the amended complaint.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 6973, 9606, 9607 and 9613(b), and also has personal jurisdiction over Settling Defendant. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendant waives all objections and defenses that he may have to jurisdiction of the Court or to venue in this District. The Parties shall not challenge the terms of this Consent Decree or any of the other Companion Consent Decrees or this Court's jurisdiction to enter and enforce any of the Companion Consent Decrees.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, upon the Settling Defendant and his heirs, successors and assigns, and upon the Utility Group, its successors and assigns. Any change in ownership or other legal status, including, but not limited to, any transfer of

assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendant or the Utility Group under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

“Certification of Completion of the Remedial Action” shall mean certification by EPA that the Remedial Action has been performed in accordance with the Utility Group Consent Decree and that the Performance Standards have been achieved.

“Companion Consent Decrees” shall mean the three consent decrees related to the Site lodged contemporaneously, consisting of the “Utility Group Consent Decree,” the “Irvin G. Schorsch Jr. Consent Decree” and the “John B. Schorsch Consent Decree.”

“Consent Decree” shall mean this consent decree and all appendices attached hereto. In the event of conflict between this consent decree and any appendix, this consent decree shall control.

“Day” shall mean a calendar day unless expressly stated to be a working day. “Working day” shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

“Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of Interest shall be the rate in effect at the time the Interest accrues. The rate of Interest is subject to change

on October 1 of each year.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean the United States, the Utility Group, and the Settling Defendant.

“Plaintiff” shall mean the United States.

“RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.* (also known as the Resource Conservation and Recovery Act).

“Remedial Action” shall mean those activities to be undertaken by the Utility Group to implement the Revised Final Design pursuant to the Utility Group Consent Decree, not including Operation and Maintenance that takes place after certification of completion of the Remedial Action.

“Revised Final Design” shall mean the final specifications, approved by EPA, for implementing the Remedial Action. The Revised Final Design shall consist of the Final Design (Appendix B) as modified by the Revised Remedial Plan (Appendix C).

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Settling Defendant” shall mean Defendant Irvin G. Schorsch, Jr.

"Site" shall mean the Metal Bank Cottman Avenue Superfund Site, located at 7301 and 7333 Milnor Street, at the intersection of Cottman Avenue and fronting on the Delaware River in the city of Philadelphia, Pennsylvania, and designated portions of its environs, including the adjacent contaminated portions of the Delaware River and mudflats, as generally shown on the Site map included in Appendix A.

“United States” shall mean the United States of America, including its departments, agencies and instrumentalities.

“Utility Group” shall mean Baltimore Gas and Electric Company, Consolidated Edison Company of New York, Inc., Jersey Central Power & Light Company, Long Island Lighting Company d/b/a LIPA, Metropolitan Edison Company, Orange and Rockland Utilities, PECO Energy Company, Potomac Electric Power Company, PP&L Electric Utilities Corporation, Public Service Electric and Gas Company, and Virginia Electric and Power Company.

V. OBJECTIVE OF THE PARTIES

4. The mutual objectives of the Parties in entering into this Consent Decree are (1) for Settling Defendant to make a cash payment and extend a limited guaranty to address his liability for the Site as provided in the Covenants Not to Sue by Plaintiff and by the Utility Group in Section VIII, subject to the Reservation of Rights by United States in Section IX, and Indemnification in Section X, and (2) for the Utility Group or others to perform the remedy.

VI. SETTLING DEFENDANT'S PERFORMANCE

5. a. Within five (5) business days after this Consent Decree is signed by all parties, Settling Defendant shall deposit \$9 million into an escrow account bearing interest on commercially reasonable terms, with a federally-chartered bank.

b. In the event that Settling Defendant should die during the 5-business day period after this Consent Decree is signed by all parties as referred to in paragraph (a) above without the required escrow deposit having been made, Settling Defendant's estate shall be responsible for timely making the required escrow deposit.

c. Settling Defendant shall submit the choice of escrow institution and the terms of the escrow arrangement for approval by counsel for the United States with the signed Consent Decree prior to its lodging with the Court.

d. The escrow agreement shall provide that if the Consent Decree is approved by an Order of the District Court ("the Approval Order") and either the time for appeal of the Approval Order has expired without an appeal being taken or the Approval Order has been affirmed on appeal by an Appellate Order which itself is not subject to any further right of appeal, certiorari or reargument ("the Final Appellate Approval Order"), the monies (including all accrued interest) in the Escrow Account shall be released and disbursed within five (5) business days of the lapse of the appeal period of the Approval Order or lapse of the appeal period of the Final Appellate Approval Order as follows: \$5,500,000.00 to EPA and \$3,500,000.00 to the Utility Group, together with accrued interest distributed in the same proportion as the division of principal.

e. The escrow agreement shall further provide that the monies placed in escrow, together with accrued interest thereon, shall be returned to the Settling Defendant if any of the following events occur:

- I. the District Court rules that it will not enter the Consent Decree ("the Denial Order") and the time for any appeal of the Denial Order has expired without an appeal being taken; or
- ii.. the District Court enters a Denial Order and the Denial Order has been affirmed on appeal or the District Court enters an Approval Order which has been reversed on appeal by an Appellate Order

which itself is not subject to any further right of appeal, certiorari or reargument and which does not provide for a remand for further proceedings in the District Court that could result in the entry of an Approval Order (“the Final Appellate Denial Order”).

f. Pursuant to Paragraph 5.e. above, the monies placed in escrow, together with accrued interest thereon shall be returned to Settling Defendant within 5 business days of the lapse of the appeal period of the Denial Order or the lapse of the appeal period of the Final Appellate Denial Order.

6. Payment

a. Payment to EPA shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 1987V00255, EPA Site Spill No. 0305, and DOJ number 90-11-2-1183A. Payment shall be made in accordance with instructions provided to the Settling Defendant by the Financial Litigation Unit of the United States Attorney’s Office for the Eastern District of Pennsylvania. Any payments received by the Department of Justice after 4:00 p.m. (Eastern Time) will be credited on the next business day.

b. Payment to the Utility Group shall be made by wire transfer to an account to be established at an institution which will be identified in writing by the Utility Group in the name of the "Cottman Avenue PRP Group" with Hunton & Williams LLP as the account agent.

c. EPA and the Utility Group shall acknowledge payments in writing to Settling Defendant within ten (10) days of receipt.

7. Documentation

a. At the time of payment to EPA, Settling Defendant shall send copies of documentation of the wire transfer to EPA and DOJ in accordance with Section XIV (Notices and Submissions) and to

Regional Docket Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and to Barbara Borden (3PM30)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

b. At the time of payment to the Utility Group, Settling Defendant shall send copies of

documentation of the wire transfer to

Cottman Avenue PRP Group
c/o Susan Terrell
Hunton & Williams LLP
951 East Byrd Street
Richmond, VA 23219.

8. All of the money to be paid to EPA pursuant to Paragraph 5 of this Consent Decree shall be deposited in a special account maintained by EPA to fund EPA's remedial work at the Site.

9. In addition to the payment required under Paragraph 6.a. hereof, Settling Defendant agrees and guarantees that in the event that the entity which emerged from the bankruptcy of the Corporate Defendants and related companies ("OSI") defaults in payments due to the Four Sites Settlement Trust, then Settling Defendant shall be liable for such payments but only to the extent of the final \$2 million (\$11.235 million to 13.235 million), so that if OSI defaults on the required contributions to the Trust, having funded less than \$11.235 million, then Settling Defendant shall be liable as Guarantor for a maximum of \$2 million to the extent that such payments become due to the United States under the Settlement Agreement; and if OSI defaults, having funded more than \$11.235 million, then Settling Defendant shall be liable as Guarantor for a maximum of the shortfall between the amount funded by OSI and \$13.235 million. In the event of a default by OSI, payment shall be due on the Guaranteed amount from Settling Defendant within forty-five (45) days from the date Notice thereof is given pursuant to Paragraph 33 below, provided that payment by Settling Defendant shall not be due earlier than it would have been due from OSI had it not defaulted on its obligation.

VII. FAILURE TO COMPLY WITH CONSENT DECREE

10. Interest on Late Payments. If Settling Defendant fails to make any payment under Paragraph 5 by the required due date, Interest shall accrue on the unpaid balance from the date of entry through the date of payment at an annual rate of 12%.

11. Stipulated Penalty.

a. If any amount due to EPA under Paragraph 5 is not paid by the required due date, Settling Defendant shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, \$1,000 per violation per day that such payment is late, in addition to the Interest required by Paragraph 10.

b. Any stipulated penalty is due and payable within thirty (30) days of the date of the demand for payment of the penalty by EPA. Any payment to EPA under this Paragraph shall be identified as a "stipulated penalty" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the

check, shall reference the name and address of the party(ies) making payment, the Site name, the EPA Region and EPA Site Spill No. 0305, and DOJ number 90-11-2-1183A, and shall be sent to:

U.S. EPA Region III
P.O. Box 360515
Pittsburgh, PA 15251-6515.

c. At the time of each payment, Settling Defendant shall send notice that payment has been made to EPA and DOJ in accordance with Section XIV (Notices and Submissions) and to

Regional Docket Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

and to Barbara Borden (3PM30)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

12. Liquidated Damages

a. If any amount due to the Utility Group under Paragraph 5 is not paid by the required due date, Settling Defendant shall be in violation of this Consent Decree and shall pay to the Utility Group, as liquidated damages, \$1,000 per violation per day, in addition to the interest required by Paragraph 10.

b. Liquidated damages are due and payable within thirty (30) days of the date of the demand for payment by the Utilities. All payments to the Utilities under this Paragraph shall be identified as "liquidated damages" and shall be made by certified or cashier's check made payable to "Hunton & Williams LLP." The check, or a letter accompanying the check, shall reference the name and address of the party making payment and the Site name and shall be sent to:

Cottman Avenue PRP Group
c/o Susan Terrell

Hunton & Williams LLP
951 East Byrd Street
Richmond, Virginia 23219.

c. Liquidated damages shall accrue as provided in this Paragraph regardless of whether the Utility Group has made a demand for payment, but need only be paid upon demand. All liquidated damages shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment.

13. If the United States brings an action to enforce this Consent Decree and is the prevailing party, Settling Defendant shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

14. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff and the Utility Group by virtue of Settling Defendant's failure to comply with the requirements of this Consent Decree.

15. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendant from payment as required by Section VI or from performance of any other requirements of this Consent Decree.

VIII. COVENANTS NOT TO SUE BY PLAINTIFF AND BY THE UTILITY GROUP

16. Covenant Not to Sue by United States. Except as specifically provided in Section IX (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendant pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect upon receipt by EPA of the payment required by Section VI (Payment of Response Costs) and any amount due under Section VII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of his obligations under this Consent Decree. The United States further covenants not to sue Settling Defendant's spouse, Anita Schorsch, or any other person against whom the United States could have made claims for receiving fraudulent conveyances or transfers from Settling Defendant.

17. Covenant Not to Sue by the Utility Group. The Utility Group hereby covenants not to sue Settling Defendant pursuant to Sections 106, 107(a) and 113(f) of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613(f) and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect upon receipt by the Utilities of the payment required by Section VI (Payment of Response Costs) and any amount due under Section VII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of his obligations

under this Consent Decree. The Utility Group further covenants not to sue Settling Defendant's spouse, Anita Schorsch, or any other person against whom the United States could have made claims for receiving fraudulent conveyances or transfers from Settling Defendant.

IX. RESERVATION OF RIGHTS BY UNITED STATES

18. United States Pre-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendant

- a. to perform further response actions relating to the Site, or
- b. to reimburse the United States for additional costs of response

if, prior to Certification of Completion of the Remedial Action, the Court determines *sua sponte* or on motion that

(1) conditions at the Site, previously unknown to EPA, have been discovered, or information, previously unknown to EPA, has been received, in whole or in part, and

(2) these previously unknown conditions or information together with any other relevant information indicate that the Remedial Action is not protective of human health or the environment.

19. United States Post-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendant

- a. to perform further response actions relating to the Site, or
- b. to reimburse the United States for additional costs of response

if, subsequent to Certification of Completion of the Remedial Action, the Court determines *sua sponte* or on motion that

(1) conditions at the Site, previously unknown to EPA, have been discovered, or information, previously unknown to EPA, has been received, in whole or in part, and

(2) these previously unknown conditions or information together with any other relevant information indicate that the Remedial Action is not protective of human health or the environment.

20. For purposes of Paragraph 18, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of May 1, 2004, and contained in the Site file. For purposes of Paragraph 19, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Remedial Action.

21. General reservations of rights. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 16. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendant with respect to:

- a. liability for failure of Settling Defendant to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based upon Settling Defendant's ownership or operation of the Site, or upon Settling Defendant's transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, occurring after the signing of this Consent Decree by Settling Defendant; and
- e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

X. INDEMNIFICATION AND ASSURANCE

22. Upon Settling Defendant's payment pursuant to Paragraph 5, the Utility Group and its individual members jointly and severally, agree to defend, indemnify and hold Settling Defendant, his spouse, and any other person to which the United States' Covenant Not to Sue in Paragraph 16 applies as transferees harmless from and against all claims, actions and causes of action for response actions and costs of response by the United States, the Utility Group, and its individual members, based upon any liability that now exists or that may arise in the future relating to or as a result of conditions at the Site, whether known or unknown, or based on new information except for any liability as described in any reservation of rights by the United States under Paragraph 21 (a) - (e), and Settling Defendant's obligations under this Consent Decree.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANT

23. Settling Defendant covenants not to sue and agrees not to assert any claims or causes

of action against the United States, or its contractors or employees, with respect to the Site or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Pennsylvania Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to RCRA or Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

Except as provided in Paragraph 26 (Waiver of Claims) and Paragraph 29 (Waiver of Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 21 c) - (e), but only to the extent that Settling Defendant's claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation.

24. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

25. Waiver of Claims. Settling Defendant agrees to withdraw and never again assert any claims or causes of action arising under RCRA, CERCLA, common law or any other legal or equitable doctrine that he may have for all matters relating to the Site, including for contribution, against any other person or party, except as to any claim for which the United States has reserved its rights hereunder pursuant to paragraphs 18, 19, and 21.

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

26. Except as provided in Paragraph 25 and as otherwise specifically set forth in this Agreement, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. Except as provided in Paragraph 25 and as otherwise specifically set forth in this Agreement, the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

27. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendant is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for “matters addressed” in this Consent Decree. The “matters addressed” in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person. The “matters addressed” in this Consent Decree do not include those response costs or response actions as to which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendant coming within the scope of such reservations.

28. Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than sixty (60) days prior to the initiation of such suit or claim. Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within ten (10) days of service of the complaint or claim upon it. In addition, Settling Defendant shall notify EPA and DOJ within ten (10) days of service or receipt of any Motion for Summary Judgment, and within ten (10) days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

29. Waiver of Defenses. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of any right acquired by Settling Defendant pursuant to this Consent Decree and performance hereunder including but not limited to the Covenants Not to Sue set forth in Section VIII, and Settling Defendant’s rights to Indemnification set forth in Section X and right to Contribution Protection set forth in Section XII, or pursuant to the companion Consent Decrees.

XIII. CERTIFICATION AS TO RECORDS

30. Settling Defendant hereby certifies that he and his agents have no records (including documents, reports and other records and all information recorded in electronic format) that have not been disclosed and made available to the United States for copying in this matter which relate in any manner to response actions taken at the Site or the liability of any person under CERCLA or RCRA with respect to the site.

31. Settling Defendant hereby certifies that all his disclosures to the United States in connection with the Site and this action have been true and complete.

32. Settling Defendant hereby certifies that, to the best of his knowledge and belief, after thorough inquiry, he has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information – other than identical copies – relating to his potential liability regarding the Site since notification of potential liability by the United States or the filing of suit against him regarding the Site that have not been disclosed and made available to the United States for copying in this matter and that he has fully complied with all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XIV. NOTICES AND SUBMISSIONS

33. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, and Settling Defendant, respectively.

As to the United States:

U.S. Department of Justice

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DOJ # 90-11-2-1183A

U.S. Environmental Protection Agency

John J. Monsees (3RC42)
Senior Assistant Regional Counsel
U.S. EPA - Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Linda R. Dietz (3HS21)
Remedial Project Manager
U.S. EPA - Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

As to Settling Defendant:

David B. Farer, Esquire
Farer, Fersko, a Professional Assn.
600 South Avenue
Westfield, New Jersey 07091

As to the Utility Group:

Jeffrey N. Martin
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006

XV. RETENTION OF JURISDICTION

34. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVI. APPENDICES

35. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" – Record of Decision for the Site.

"Appendix B" – Final Design Report.

"Appendix C" – Revised Remedial Plan.

"Appendix D" – List of Settling Defendants.

"Appendix E" – Draft easement.

"Appendix F" – List of financial documents submitted by settling defendant John B. Schorsch in connection with the John B. Schorsch Consent Decree.

"Appendix G" – Settlement Agreement Respecting Environmental Objections to Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, *In the Matter of Union Financial Services Group, Inc., et al.* (United States Bankruptcy Court for the Eastern District of Missouri, Case Number 03-45870-399).

"Appendix H" – Agreement with the City of Philadelphia.

XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

36. This Consent Decree and the other two Companion Consent Decrees shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment. An opportunity for a public meeting in the affected area will also be provided, pursuant to Section 7003(d) of RCRA. The United States reserves the right to withdraw or withhold its consent to any of the Companion Consent Decrees if comments received in response to the notice or at any public meeting held pursuant to RCRA § 7003 disclose facts or considerations that indicate that any of the Companion Consent Decrees is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of all three Companion Consent Decrees without further notice.

37. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XVIII. COMPANION CONSENT DECREES

38. The three Companion Consent Decrees are all part of one global settlement. If the Court declines to enter one or more Companion Consent Decrees, the United States and the Utility Group shall have thirty (30) days in which either may elect to withdraw or withhold consent for the remaining Companion Consent Decrees.

XIX. SIGNATORIES/SERVICE

39. The undersigned representative of Settling Defendant to this Consent Decree, the undersigned representative of the Utility Group (on behalf of all of the members of the Utility Group), and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

40. Settling Defendant hereby agrees not to oppose entry by the Court of any of the Companion Consent Decrees or to challenge any provision of any of the Companion Consent Decrees, unless the United States has notified Settling Defendant in writing that it no longer supports entry of this Consent Decree.

41. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on his behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

XX. FINAL JUDGMENT

42. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree and the other Companion Consent Decrees. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States, the Utility Group, and the Settling Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 2005.

Honorable James T. Giles
Chief Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Union Corp., et al.*, Civil Action 80-1589, relating to the Metal Bank Superfund Site.

FOR THE UNITED STATES OF AMERICA

Date: 8/15/05

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

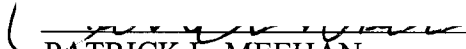
Date: July 21, 2005

ERIC G. WILLIAMS
CATHERINE MALININ DUNN
Trial Attorneys
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Union Corp., et al.*, Civil Action 80-1589, relating to the Metal Bank Superfund Site.

Respectfully submitted,


Date: 8-29-05


PATRICK L. MEEHAN
United States Attorney

Date: 8/29/05


VIRGINIA A. GIBSON
Chief, Civil Division

Date: 8-29-05


NURIYE C. UYGUR
Assistant United States Attorney
Office of the United States Attorney
Eastern Division of Pennsylvania
615 Chestnut Street – Room 1250
Philadelphia, PA 19106

Date: 7/14/05

Date: 6/20/05

Date: 6/16/05

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THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States v. Union Corp., et al.*, Civil Action 80-1589, relating to the Metal Bank Superfund Site.

DEFENDANT IRVIN G. SCHORSCH, JR.

Date: 6-23-05

IRVIN G. SCHORSCH, JR.
1591 Warner Road
Meadowbrook, PA 19046

~~DRA~~ UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States v. Union Corp., et al.*, Civil Action 80-1589, relating to the Metal Bank Superfund Site.

FOR THE UTILITY GROUP:

BALTIMORE GAS AND ELECTRIC COMPANY
CONSOLIDATED EDISON COMPANY OF NEW
YORK, INC.

JERSEY CENTRAL POWER & LIGHT COMPANY
LONG ISLAND LIGHTING COMPANY d/b/a LIPA
METROPOLITAN EDISON COMPANY
ORANGE AND ROCKLAND UTILITIES
PECO ENERGY COMPANY
POTOMAC ELECTRIC POWER COMPANY
PP&L ELECTRIC UTILITIES CORPORATION
PUBLIC SERVICE ELECTRIC AND GAS COMPANY
VIRGINIA ELECTRIC AND POWER COMPANY

By their Attorneys:

Date:

July 6, 2005

JEFFREY N. MARTIN
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006

DAN J. JORDANGER
Hunton & Williams LLP
951 East Byrd Street
Richmond, Virginia 23219